

- A. Assessment. In addition to any penalties assessed by the County, any person (as defined in the GLO Rules) who violates either the Dune Protection Act, the Open Beaches Act, this Order, or a permit condition is liable to the GLO for a civil penalty of not less than \$50 nor more than \$1,000 per violation per day. Each day the violation occurs or continues constitutes a separate violation. Violations of the Dune Protection Act, the Open Beaches Act, and the rules adopted pursuant to those statutes are separate violations and the GLO may assess separate penalties. The assessment of penalties under one Act does not preclude another assessment of penalties under the other Act for the same act or omission. Conversely, compliance with one statute and the rules adopted thereunder does not preclude the GLO from assessing penalties under the other statute and the rules adopted pursuant to that statute.
- B. Informing GLO. If the County has knowledge of a violation or a threatened violation of a permit, this Order, the Dune Protection Act, the Open Beaches Act, or the GLO Rules, it must inform the GLO of the violation(s) within 24 hours.
- C. Mitigating Circumstances. The County will consider the following mitigating circumstances when referring violations for assessment of penalties and the GLO will consider the following mitigating circumstances in determining whether the assessment of penalties is appropriate: acts of God, war, public riot, terrorist acts, or strike; unforeseeable, sudden, and natural occurrences of a violent nature; and willful misconduct by a third party not related to the permittee by employment or contract.

VIII. CRIMINAL PENALTIES

- A. Misdemeanor. Any person violating an offense portion of this Order shall be guilty of a misdemeanor.
- B. Punishment. Upon conviction of violating an offense portion of this Order, the person shall be punished as follows:
 - 1. for a first conviction, a fine of not less than \$50.00 nor more than \$100.00;
 - 2. for a second conviction, a fine of not less than \$100.00 nor more than \$200.00;
 - 3. for any subsequent convictions after the second conviction, a fine of not less than \$200.00 nor more than \$1,000.00 or confinement in the County jail for not more than 60 days, or both.

IX. GENERAL PROVISIONS

- A. Construction
 - 1. This Order and all orders, resolutions, or other enactments related or pursuant to this Order shall be read in harmony with County orders of general applicability. If there is any conflict between them which cannot be reconciled by ordinary rules of legal interpretation, this Order controls.
 - 2. This Order and all orders, resolutions, or other enactments related or pursuant to this Order shall be read in harmony with the Open Beaches Act, the Dune Protection Act, and GLO Rules implementing them. If there is any conflict between them which cannot be reconciled by ordinary rules of legal interpretation, state law provisions control.

B. Boundary Determinations

The AG will make determinations on issues related to the location of the boundary of the public beach and encroachments on the public beach pursuant to the requirements of the Open Beaches Act, §61.016 and §61.017, and §15.3(b) of the GLO Rules. The GLO and the County shall consult with the AG whenever questions of encroachment and boundaries arise with respect to the public beach.

C. Beaches Presumed to be Public

The County will presume that any beach fronting the Gulf of Mexico within its jurisdiction is a public beach unless the owner of the adjacent land obtains a declaratory judgment otherwise under the Open Beaches Act, § 61.019 of the Texas Natural Resources Code. That section provides that any person owning property fronting the Gulf of Mexico whose rights are determined or affected by this Order may bring suit for a declaratory judgment against the State to try the issue or issues.

D. General Prohibition

No person shall violate any provision of the GLO Rules, this Order or any permit or the conditions contained therein.

E. Appeals

Texas Natural Resources Code §§ 61.019, 63.151 contain the provisions for appeals by littoral owners related to this Order and the GLO Rules.

F. County Authority Retained. The County expressly preserves and retains the authority granted to it under the constitution or laws of the State of Texas and/or the United States. This Order shall not be construed or deemed to waive, diminish, or in any way relinquish such authority and shall not be construed or deemed to impliedly waive, diminish, or in any way relinquish such authority and certification of this Order by the GLO may not be construed or deemed to expand or detract from such authority; such authority includes but is not limited to the following:

1. Section 61.022 of the Texas Natural Resources Code (the County's authority to erect or maintain any groin, seawall, barrier, pass, channel, jetty, or other structure as an aid to navigation, protection of the shore, fishing, safety, or other lawful purpose as authorized by the constitution or laws of the State of Texas or the United States);
2. Section 421.002 and related sections of the Texas Local Government Code (the County's authority to establish, construct, extend, maintain, or improve a seawall, breakwater, levee, floodway, or drainway and to improve, maintain, or beautify a boulevard erected in connection with the seawall, breakwater, levee, floodway, or drainway as authorized by the constitution or laws of the State of Texas or the United States).

G. Severability/Validity

1. Severability. If a provision in this Order is held invalid by a court of competent jurisdiction, the invalidity does not affect the other provisions of the Order that can be given effect without the invalid provision, and to this end the provisions of this Order are severable.

2. **Validity and Enforceability.** If any current or future legal limitations affect the validity or enforceability of a provision of this Order, then the legal limitations are made a part of this Order and shall operate to amend this Order to the minimum extent necessary to bring this Order into conformity with the requirements of the limitations, and as so modified, this Order shall continue in full force and effect.
- H. **Headings.** The headings at the beginning of the various provisions of this Order have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Order.
- I. **Receipt by Land Office.** Various provisions in this Plan refer to receipt by or of the General Land Office or Commissioner. Receipt by the General Land Office or Commissioner means the actual date of receipt by the General Land Office or the second business day after the date of deposit into a United States postal receptacle of the mailing, properly addressed to the General Land Office with proper postage affixed, whichever is earlier.

X. SIGNS INDICATING REGULATIONS

- A. **Authorization to County Engineer and Road and Bridge.** As soon as reasonably possible after the passage of this Order, the County Engineer is authorized to design traffic regulation and speed limit signs indicating the regulations prescribed in this Order. The Road and Bridge Department is authorized to construct and install the traffic regulation and speed limit signs. Such signs must be in compliance with the current provisions of the Texas Manual on Traffic Control Devices for Streets and Highways, stating the applicable speed limits and motor vehicle traffic regulations or prohibitions.
- B. **Uniform bilingual beach access sign.** The GLO will, in conjunction with the State Department of Highways and Public Transportation, design and produce a uniform bilingual beach access sign to be used by Galveston County to designate access ways to and from public beaches.
- C. **Placement.** Upon the receipt of such signs, the Road and Bridge Department shall place sufficient signs at each public beach access point within the jurisdiction of Galveston County to insure adequate public notice of such access point.
- D. **Request for placement.** Galveston County may provide, at the request of littoral landowners, appropriate signing allowing for the protection of the ecological function of barrier island features. These signs include, but are not limited to, dune reconstruction areas.

XI. ENFORCEMENT

- A. **Generally**
 1. Any county attorney, district attorney, criminal district attorney, other attorney at the request of the Commissioners Court, or the attorney general at the request of the Commissioner, shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or